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JAMES C. KENNEY
Cabinet Secretary

JENNIFER PRUETT
Deputy Secretary

Original via UPS-Copy via Electronic Mail

April 26, 2019

Mr. Charles Maguire, Director
Water Quality Protection Division (6WQ)
U. S. Environmental Protection Agency
1445 Ross Avenue, Suite 1200
Dallas, Texas 75202-2733

Re: State Certification - New Mexico Water Service Company – Rio Communities Wastewater Treatment Plant (WWTP) – NPDES Permit No. NM0027782

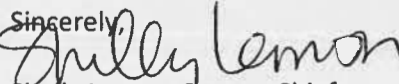
Dear Mr. Maguire:

Enclosed, please find the state certification for the following proposed National Pollutant Discharge Elimination System (NPDES) Permit No. NM0027782, New Mexico Water Service Company, Rio Communities WWTP.

If any, comments and conditions are enclosed on separate sheets.

U.S. Environmental Protection Agency (USEPA) proposes to regulate discharges under the above- referenced NPDES Individual Permit. A state Water Quality Certification is required by the federal Clean Water Act (CWA) §401 to ensure that the action is consistent with state law (New Mexico Water Quality Act, sections 74-6-1 through 74-6-17, New Mexico Statutes Annotated (NMSA) 1978) and complies with state Water Quality Standards [*State of New Mexico, Standards for Interstate & Intrastate Surface Waters, New Mexico Water Quality Control Commission, 20.6.4 New Mexico Administrative Code (NMAC)*], the Water Quality Management Plan/Continuing Planning Process, including Total Maximum Daily Loads (TMDLs), and the Antidegradation Policy.

Pursuant to State regulations for permit certification (Section 20.6.2.2001 NMAC), USEPA jointly with NMED issued a public notice of the draft permit and announced a public comment period posted on the NMED web site at www.nmenv.state.nm.us/swqb/WQA/Notice on March 23, 2019. The NMED public comment period ended on April 21, 2019. NMED did not receive comments.

Sincerely,

Shelly Lemon, Bureau Chief
Surface Water Quality Bureau

cc: (w/ enclosures)
Ms. Evelyn Rosborough, USEPA (6WQ-NP) via e-mail
Mr. Brent Larsen, USEPA (6WQ-PP) via e-mail
Tung Nguyen, USEPA (6WQ-PP) via e-mail

Ms. Anne Idsal, Regional Administrator
Environmental Protection Agency
1445 Ross Avenue
Dallas, TX 75202-2733

April 26, 2019

STATE CERTIFICATION

RE: **New Mexico Water Service Company – Rio Communities WWTP – NPDES Permit No. NM0027782**

Dear Ms. Idsal:

The New Mexico Environment Department has examined the proposed NPDES permit above. The following conditions are necessary to assure compliance with the applicable provisions of the Clean Water Act Sections 208(e), 301, 302, 303, 306, and 307 and with appropriate requirements of State law. Compliance with the terms and conditions of the permit and this certification will provide reasonable assurance that the permitted activities will be conducted in a manner which will not violate applicable water quality standards and the water quality management plan and will be in compliance with the antidegradation policy.

The State of New Mexico

- ☐ () certifies that the discharge will comply with the applicable provisions of Sections 208(e), 301, 302, 303, 306 and 307 of the Clean Water Act and with appropriate requirements of State law.
- ☒ (X) certifies that the discharge will comply with the applicable provisions of Sections 208(e), 301, 302, 303, 306 and 307 of the Clean Water Act and with appropriate requirements of State law upon inclusion of the following conditions in the permit (see attachments)
- ☐ () denies certification for the reasons stated in the attachment
- ☐ () waives its right to certify

In order to meet the requirements of State law, including water quality standards and appropriate basin plan as may be amended by the water quality management plan, each of the conditions cited in the draft permit and the State certification shall not be made less stringent.

The Department reserves the right to amend or revoke this certification if such action is necessary to ensure compliance with the State's water quality standards and water quality management plan.

Please contact Sarah Holcomb at (505) 827-2798, if you have any questions concerning this certification. Comments and conditions pertaining to this draft permit are attached.

Sincerely,



Shelly Lemon
Bureau Chief
Surface Water Quality Bureau

New Mexico Water Service Company – Rio Communities
State Certification of the Proposed NPDES Permit
NM0027782
April 26, 2019

The following revisions are necessary to ensure that discharges allowed under the National Pollutant Discharge Elimination System (NPDES) permit protect State of New Mexico water quality standards (WQS) adopted in accordance with §303 of the Clean Water Act (CWA) and the New Mexico Water Quality Act [NMSA 1978, §§ 74-6-1 to -17]. State of New Mexico (State) WQS are published in the document entitled Standards for Interstate and Intrastate Surface Waters, New Mexico Water Quality Control Commission (WQCC), 20.6.4 New Mexico Administrative Code (NMAC) as amended by the WQCC and approved by the United States Environmental Protection Agency (EPA or USEPA) as of August 11, 2017.

NPDES regulations at 40 CFR 122.44(d)(1)(i) require that permit *limitations must control all pollutants or pollutant parameters... which the Director determines are or may be discharged at a level which will cause, have the reasonable potential to cause, or contribute to an excursion above any State water quality standard...*

Conditions of Certification:

Condition #1:

1. 40 CFR §130.7(c) requires Total Maximum Daily Loads (TMDLs) to be established at levels necessary to attain and maintain the applicable narrative and numerical water quality standards.

40 CFR 122.44 (d) (1) (vii) (B) requires that NPDES permit conditions must be consistent with the assumptions and requirements of an available waste load allocation (WLA) in a TMDL. The approved WLA should be incorporated into the NPDES Permit.

The State of New Mexico approved a TMDL in 2010 for the Rio Grande Basin (Rio Puerco to Isleta Boundary) for E. coli. The Rio Communities WWTP discharges into NM-2105_40 assessment unit. Therefore, EPA must incorporate the WLA into the NPDES permit No. NM0027782, as follows:

Approved TMDL (2010):

Assessment Unit	Facility	Design Capacity Flow (MGD)	Proposed E. coli Effluent Limits (cfu/100 mL)	Conversion Factor	Waste Load Allocation (cfu/day)
Rio Grande (Rio Puerco to Isleta Pueblo Bnd)	NM0027782 NM Water Service Co. Rio Communities	0.03 MGD	126	3.79×10^7	1.43×10^9

Comments that are not Conditions of Certification:

1. NMED requests that the language regarding WET testing in Part II.d state "if re-tests are required by EPA, enter the following codes." EPA is the permitting authority in New Mexico and should determine if any re-tests need to be performed.
2. NMED requests the language in Part II.e, WET, be changed to "...the permittee must report the test results to EPA, in writing, within 5 business days of notification of the test failure."